

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #14	CCRB Case #: 201902821	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/06/2017 1:50 PM	Location of Incident: § 87(2)(b); 42nd Precinct stationhouse		Precinct: 42	18 Mo. SOL 3/6/2019	EO SOL 3/6/2019
Date/Time CV Reported Tue, 03/26/2019 2:00 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Tue, 03/26/2019 2:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Valdez	01842	940823	042 DET
2. Officers			T.A.R.U
3. An officer			T.A.R.U

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Sasha Brugal	00240	942463	DB BXHM
2. DT3 Pedro Gomez	1207	936676	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: § 87(2)(b) in the Bronx, an officer struck § 87(2)(b) with a vehicle.	
B. Officers	Force: § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	
C. POM Jose Valdez	Abuse: At the 42nd Precinct stationhouse, Detective Jose Valdez did not obtain medical treatment for § 87(2)(b)	

Case Summary

On March 26, 2019, § 87(2)(b) filed this complaint with the CCRB via mail.

On September 6, 2017, at approximately 1:50 p.m., at § 87(2)(b)

§ 87(2)(b) in the Bronx, an officer struck § 87(2)(b) with a vehicle and officers used physical force against him (**Allegations A and B: Force**, § 87(2)(g)). At the 42nd Precinct stationhouse in the Bronx, Police Officer Jose Valdez of the 42nd Precinct Detective Squad allegedly did not obtain medical treatment for § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was arrested for § 87(2)(b)

§ 87(2)(b)

There is no video evidence in this case.

§ 87(2)(g)

Findings and Recommendations

Allegation (A) Force: At East 163rd Street between Washington Avenue and 3rd Avenue in the Bronx, an officer struck § 87(2)(b) with a vehicle.

Allegation (B) Force: At East 163rd Street between Washington Avenue and 3rd Avenue in the Bronx, officers used physical force against § 87(2)(b)

The investigation established the following facts: On September 6, 2017, § 87(2)(b) was at his friend's apartment § 87(2)(b) in the Bronx. § 87(2)(b) had an open complaint report (UF-61) and Investigation Card (I-Card) with probable cause to arrest for assault in the second degree, as he allegedly discharged a firearm and struck a civilian once in the torso and once in the left leg on § 87(2)(b). At approximately 1:50 p.m., § 87(2)(b) exited his friend's apartment and was apprehended by Technical Assistance Response Unit (TARU) officers. The rest of the details of this case are in dispute.

§ 87(2)(b) (BR 01) alleged that when he exited the apartment building, he walked § 87(2)(b) to go to a store. As he was walking, he was struck by a black Chevy Impala from behind. § 87(2)(b) did not hear the vehicle approach him. The vehicle made contact with § 87(2)(b)'s right hip. § 87(2)(b) did not fall, but was "weakening" as a result of being hit with the vehicle. § 87(2)(b) saw four officers inside of the vehicle. § 87(2)(b) began running because he did not know if there were "any enemies" or "people trying to harm [him]" inside the vehicle. After running for approximately one block, an officer "bear-hugged" § 87(2)(b) around his chest area and slammed him to the ground so that § 87(2)(b) landed on his back. The officer immediately punched § 87(2)(b) more than five times in the face without saying anything. Approximately five to ten minutes later, the four officers who were in the vehicle approached § 87(2)(b) on the ground. All of the officers punched and kicked § 87(2)(b) in his face, side, and groin. The officers never said anything to § 87(2)(b). After approximately five minutes, the officers rolled § 87(2)(b) onto his stomach, rear handcuffed him, and removed him to the 42nd Precinct stationhouse. § 87(2)(b) alleged that he had a "half-inch hole" in his hip, which was bleeding through his shirt and that his right eye was bleeding.

§ 87(2)(b) described the four officers in the vehicle as follows: (1) Hispanic male with black hair, standing 5'7" tall and with slim build, approximately in his mid-30s, and wearing plainclothes; (2) "White American" male, black hair, standing 6' tall, weighing 240 pounds, approximately 40 years old, and wearing plainclothes; (3) male, who he could not further describe; and (4) male, who he also could not further describe. § 87(2)(b) described the fifth officer as a Hispanic male with salt and pepper hair, standing 5'4" to 5'6" tall with heavy build, and wearing plainclothes.

In his original complaint (BR 02), § 87(2)(b) provided the following names of the officers who "assaulted" him: Police Officer Sasha Brugal, Police Officer Pedro Gomez, and Police Officer Jose Valdez.

PO Brugal (BR 03) of the 42nd Precinct Detective Squad testified that she was off-duty and did not participate in § 87(2)(b)'s apprehension, though she was the investigating officer assigned to his case. Before the start of her scheduled tour on September 7, 2017, PO. Brugal received a phone call from her command that § 87(2)(b) had been apprehended by Detective Pedro Gomez of the Violent Felony Squad. PO Brugal did not obtain further information as to how § 87(2)(b) was apprehended and had no knowledge of any force being used against him. PO Brugal did not recall seeing any injuries on § 87(2)(b)'s person, including bleeding, when she arrived for her scheduled tour.

Det. Gomez (BR 04) testified that he received a phone call from an unidentified TARU officer stating that TARU could help the Violent Felony Squad locate § 87(2)(b) pursuant to the probable cause to arrest I-Card. TARU tracked § 87(2)(b)'s cell phone to § 87(2)(b) in the Bronx. Upon arrival, Det. Gomez, other unidentified Violent Felony Squad officers, and two unidentified TARU officers entered the building. The TARU officers went floor-to-floor to try to locate § 87(2)(b)'s phone using a "cell site simulator." While TARU officers went floor-to-floor, Det. Gomez spoke with the superintendent of the building and showed him a photograph of § 87(2)(b). The superintendent said he was a friend of § 87(2)(b)'s family and confirmed that § 87(2)(b) had previously been at the location. The TARU officers put over a transmission via point-to-point radio that § 87(2)(b)'s phone was "on the move." The TARU officers exited the building to continue tracking § 87(2)(b)'s phone, while Det. Gomez continued to speak with the superintendent. TARU officers indicated over the radio that they spotted § 87(2)(b) followed immediately by a transmission of a foot pursuit. As the transmissions came over the radio, Det. Gomez left the building and headed toward its rear. § 87(2)(b) was standing handcuffed when Det. Gomez got to the rear of the building. Det. Gomez did not notice any injuries on § 87(2)(b)'s person. Det. Gomez did not speak with the TARU officers as to how § 87(2)(b) was apprehended and denied seeing any officer use physical force against § 87(2)(b).

The Roll Call from TARU (BR 05-06) lists four Response Teams active on the date of the incident. The Movement Log did not list any officers with assignments within the confines of the 42nd Precinct. Response 1 and Response 2 Teams were working at the time of the incident. Using the Movement Log in comparison with the Roll Call, the investigation determined that Sergeant Ronald Kingston, Sergeant Jean Lata, Detective Wilson Caro, and Police Officer William Caldarera, all Response 1 members, were not listed on the Movement Log. Sergeant Michael Alfieri, Sergeant Nicholas Gravino, Detective Nancy Antoine, Detective Richard Green, Detective Dikensy Moussignac, and Detective Daniel Roll, all Response 2 members, were not listed on the Movement Log. Detective Pastor Ramirez and Detective Christopher Vernam are listed on the Movement Log as what appears to read "41 D/L," but the number is not completely legible.

The investigation interviewed Det. Roll and Det. Ramirez, as they somewhat matched the general description § 87(2)(b) provided of the officers involved and could not be ruled out as subjects based on the Movement Log. Det. Roll (BR 07) denied having any knowledge of this incident and testified that his team does not assist in tracking cell phones, but rather assists in hostage negotiations, barricaded situations, video downloads, and video installations. Similarly, Det. Ramirez (BR 08) had no knowledge of this incident and had responded to a call on the day of the incident to download footage for an ongoing investigation in the confines of the 48th Precinct. Det. Caro, who also somewhat matched § 87(2)(b)'s general description, provided his Job Tracker Report which revealed that Det. Caro was assigned a job in the 103rd Precinct at the time of the incident.

The investigation received negative results for a Police Accident Report related to this incident (BR 15).

The DD5s (BR 09) provided in connection with § 87(2)(b) do not identify any TARU officers involved in his apprehension.

§ 87(2)(g)

Allegation (C) Abuse of Authority: At the 42nd Precinct stationhouse in the Bronx, Police Officer Jose Valdez did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that when he arrived at the stationhouse, he asked for medical attention, but did not receive it until several days later when EMTs arrived at the stationhouse. § 87(2)(b) still had a “hole” in his hip, as well as visible bruising on his back and chest. An EMT placed gauze into the “hole” in § 87(2)(b)’s hip, which caused the wound to burn. The EMTs supplied § 87(2)(b) with extra gauze before leaving.

§ 87(2)(b)’s Medical Treatment of Prisoner Report (MTPR) was generated by PO Valdez on September 6, 2017 (BR 10). The “remarks” section stated, “Defendant is complaining of pain to right side of lower side of stomach and small pain to right eye.” The “EMS Field Personnel” box was not signed by EMTs until September 8, 2017.

PO Valdez (BR 11) did not have any recollection of interacting with § 87(2)(b). PO Valdez testified he was not involved in § 87(2)(b)’s arrest and therefore could not answer as to whether § 87(2)(b) asked for medical treatment at the 42nd Precinct stationhouse. Upon reviewing the MTPR, PO Valdez said he prepared the form and transported § 87(2)(b) to Bronx Central Booking, but did not have a further recollection of the incident. PO Valdez did not independently recall § 87(2)(b) having any injuries or complaining of any injuries. PO Valdez did not know why EMTs did not sign the MTPR until September 8, 2017 and denied refusing to provide or delaying § 87(2)(b)’s medical treatment.

According to § 87(2)(b)’s Pre-Arrest Screening Form, prepared on September 8, 2017, § 87(2)(b) answered “no” to the question, “Are you sick or injured?” The provider who filled out the form, whose name is not legible, answered “no” to the following questions: “Does the detainee appear sick or injured?” and “Transport to ER?” (see medical records).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 12).
- PO Valdez has been a member of service for 14 years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a claim against the City of New York in the United States District Court in the Southern District of New York claiming injuries and seeking \$3,500,000 as redress for his injuries (BR 13).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date